

A

File No. 224
1928.

Collection No.

AC
14/6

Pros. Nos. 107-108-110
Serial

P-11

Subject.

Factories Rules

Previous References.

Later References.

739/21.

S.N.109

From the Govt. of Madras, dated 19-8-31, forwarding
copy of G.O.No.1023,d/13-7-31

Usual draft submitted.

For precedent,
vide S.N.98 (W)

A.S.
24.8.31

25.8.31

Form No. 6462 W/5-9-31.

No. 2080-B-31.

Office of the District Magistrate,
Civil and Military Station, Bangalore.

Dated 11th August, 1931.

FROM

G. H. Cooke, Esquire, M.C., I.C.S.,

DISTRICT MAGISTRATE, CIVIL AND MILITARY STATION,

BANGALORE,

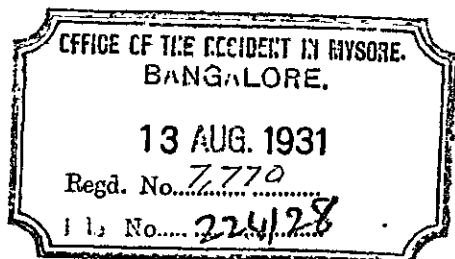
TO

The Secretary to the Resident
in Mysore, Bangalore.

SIR,

Indian Factories Act - This office letter
No. 2080-B-31, dated the 5th May, 1931.

Kindly return to this office the two Madras
Government Orders sent with the above letter.



CKN/11.8

I have the honour to be,
Sir,
Your most obedient servant,

[Signature]
DISTRICT MAGISTRATE.

[Signature]
12/8

Draft submitted.

[Signature]
14.8.31
17.8.31

Memorandum.

No. 5989 Sub-2

From _____
Secretary to the Resident.

Bangalore, dated 18-August-1931.

To _____
The District Magistrate,
C. and M. Station,
Bangalore.

PUC.

Reference:- His letter No.2080B-31, dated the
11th August 1931.

incd to S/N 107
V) & (2)

The two Madras Government orders referred
to are returned.

2d
44
17.8.31

11/7/31

for Secretary to the Resident.

20/8

12.2.02
14.8.31



FORT ST. GEORGE,

~~XXXXXXXXXXXX~~

19th August 1931

From

S.V. Ramamurti Esquire I.C.S.,

SECRETARY TO THE GOVERNMENT OF MADRAS,
Development DEPARTMENT,

To

THE Hon'ble the Resident in Mysore,

Bangalore.

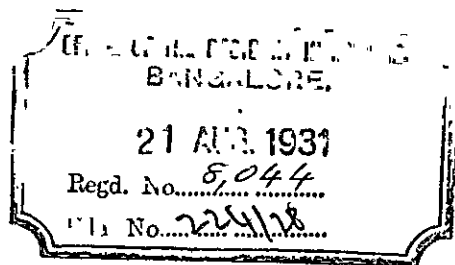
SIR,

I am directed to forward the enclosed proceedings of the Madras Government,
No. 1023 Dev. , dated the 13th J u l y 1931 .

I have the honour to be,

Sir,

Your most obedient servant,



for Secretary. 20/8/38

109
C

Government of Madras

DEVELOPMENT DEPARTMENT

G.O. No. 1023, 13th July 1931

Factories Rules—Rule 79-A—Draft amendment—Published.

READ—the following papers :—

I

Letter from J. GRAY, Esq., O.B.E., I.C.S., Commissioner of Labour, to the Secretary to Government, Development Department, dated the 6th March 1931, No. D-1-1190/31.

[Factories—Accidents—Notice of—Amendment to the Madras Factories Rules—Suggested.]

There is no provision in the Madras Factories Rules for the submission by factory managers of further information in the case of accidents, the nature of results of which ultimately prove to be different from the original description given in the prescribed report in Form K. To ensure correct classification of such accidents, in the annual administration reports it is desirable that managers of factories should be required by a statutory provision to send a subsequent notice. A provision of that kind is in force in Great Britain—vide section 4 (2) of the Notice of Accidents Act, 1906, printed on page 271 of Redgraves Factory Acts, 13th Edition. The rules framed by some of the Local Governments provide for a subsequent report in such cases—vide Rule 68 of the Assam Factories Rules and Rule 62 of the Bombay Factories Rules printed in “The Indian Factories Act” by T. C. Ray. I have the honour to suggest therefore that Government may be pleased to issue the following amendment to the Madras Factories Rules :—

Insert the following as Rule 79-A :—

“In the case of accidents where the nature of the injuries or the results ultimately prove to be different from the description originally reported in Form K, a further report shall be submitted to the authorities mentioned in Rule 76 (i) and (ii) as to the exact nature and extent of the disablement caused by such injuries as soon as this information comes to the knowledge of the occupier or manager of the factory.”

The Chief Inspector of Factories considers that the insertion of such a rule will not be in consonance with the provisions of section 34 of the Indian Factories Act as the section does not contain a sub-section similar to sub-section (2) of section 4 of the British Notice of Accidents Act, 1906. He is of opinion that only one notice is obligatory in the case of an accident in a factory and that it would be *ultra vires* of the Local Government to ask for a second notice. It seems unlikely however that the Assam and Bombay Rules referred to above are *ultra vires*, and probably no amendment of the Act is necessary to secure the object in view. The draft rule suggested will meet the requirements. I would suggest however that before the proposed rule is issued legal advice may be taken as to whether it would be *intra vires*.

II

Official Memorandum No. 766-II/31-1, Development, dated 31st March 1931.

Copy of letter from the Commissioner of Labour No. D-1-1190/31, dated 6th March 1931, is forwarded to the Advocate-General who is requested to advise whether it would be *intra vires* to issue a rule providing for the giving of a second notice in the case of accidents, occurring in factories.

(By order)

R. RAMASWAMI AYYANGAR,
Assistant Secretary to Government.

To the Advocate-General.

III

Opinion of the Advocate-General, No. 39, dated 4th May 1931.

[*Reference.*—Memorandum No. 766-II/31-1, Development, dated 31st March 1931.]

While a rule which merely enjoins on every person occupying a factory to amend or correct the information supplied by him may be in order, the proposed rule is open to the objection that it is indefinite in its character and that various causes might intervene between the date of the accident and the date within which a person occupying a factory is to send a second notice which may make it difficult to trace a particular malady, disablement or injury to the original accident. Under the rule a court of law is expected to arrive at findings on two points: (1) whether a particular manifestation of an injury at any distance of time is due to a particular cause and (2) whether the same has come to the knowledge of the occupier of the factory. Neither of these questions is easy to determine. Even the decisions of the highest court in England on the question as to how far a particular result must be treated as arising from a particular cause or as being due to the intervention of a fresh cause are not easy to reconcile. The rule does not specify any particular period of time within which the occupier of the factory is to send the second notice. Section 4, sub-section 2 of the English Notice of Accidents Act, 1906, provides for a second notice only in the event of the accident resulting in the death of the person disabled after the sending of the first notice, and does not provide for giving any supplemental information. In the circumstances and for the reasons stated above I think draft rule 79-A in its present form may not be in order. It will be for the Government to consider whether it is feasible to frame a rule enjoining a duty on the occupier of a factory of correcting or supplementing the original information within a reasonable period of time.

A. KRISHNASWAMI,
Advocate-General.

IV

Official Memorandum No. 766-II/31-2, Development, dated 11th May 1931.

[*Reference.*—His letter No. D-1-1190/31, dated 6th March 1931, regarding factories accident.—Notice of—Amendment to the Madras Factories Rules.]

Copy of opinion of the Advocate-General No. 39, dated 4th May 1931, is forwarded to the Commissioner of Labour and he is requested to suggest a draft rule prescribing the supply within a given time of supplemental information to the authorities prescribed in rule 76 (i) and (ii) if he considers such a rule to be desirable.

(By order)

R. RAMASWAMI AYYANGAR,
Assistant Secretary to Government.

To the Commissioner of Labour.

V

Letter from H. A. B. VERNON, Esq., C.S.I., C.I.E., I.C.S., Commissioner of Labour, to the Secretary to Government, Development Department, dated the 17th June 1931, No. D-1-1190/31.

[Factories—Accidents—Notice of amendment to the Madras Factories Rules—
Reference.—Memorandum No. 766-II/31-1, Development, dated 11th May 1931.]

I have the honour to submit herewith a draft amendment to the Madras Factories Rules with reference to the orders in the Government Memorandum quoted above.

Insert the following as Rule 79-A:—

“Where an accident the nature of the injuries or the results of which ultimately prove to be different from the description originally reported in Form K, the manager of the factory shall, as soon as possible and within three months from the date of the accident, make the necessary addition or correction in a supplementary report which shall be sent to the authorities prescribed in Rule 76 (i) and (ii) of these rules.”

The Chief Inspector of Factories whom I consulted in the matter suggests that the question of amending the rule may be dropped for the present—vide copy of his letter No. 1689/30, dated 2nd June 1931 enclosed. But this suggestion cannot be agreed to because the conditions in Bombay and Assam are not very different from those in Madras and if Bombay and Assam can successfully impose such an obligation on the managers of factories in their provinces, it should be equally possible to impose similar obligation in this Presidency also.

ENCLOSURE.

Letter from the Chief Inspector of Factories, Madras, to the Commissioner of Labour, dated the 2nd June 1931, No. 1689/30.

[Second report on accidents—Draft rule 79-A—Amendment to the Madras Factories Rules—Your endorsement No. D-1-1190-31, dated the 16th May 1931.]

The idea of a draft rule calling for a second report on accidents was mooted by the Commissioner's office on my letter No. 1689/30, dated 24th November 1930. For in paragraph 2 of my letter it was stated that this department had no authority under the Act or the rules to call for further particulars relating to persons injured in an accident. Once the accident was duly reported in Form K—the particular instance related to a man named Loganathan in the Perambur Works who was, in the Form K report, stated to have been only injured but died subsequently. This latter fact was reported to the Commissioner for Workmen's Compensation by an outside agency but this office was not aware of the occurrence till at a late stage. The Advocate-General has in his opinion explained the limitations of the draft Rule 79-A proposed by the Commissioner. This rule will further be difficult of enforcement as in the first place managers and occupiers of factories are usually not in a position to trace the whereabouts of injured persons that have left the factory and gone away from the place of their occupation. Secondly, there is no certainty specially in the case of illiterate persons that any subsequent developments can be traced to the injuries caused by the original accident, primitive and septic methods of treatment being responsible for many serious developments of this kind. In short, the draft rule if brought into force will impose a statutory obligation on managers and occupiers of factories which cannot in the present conditions of labour in this country be reasonably expected to be fulfilled by them. In view of the opinion of the Advocate-General and on further consideration of the limitation of such a rule I would suggest that the matter be shelved for the present.

Order—No. 1023, Development, dated 13th July 1931.

The Superintendent, Government Press, is requested to publish the appended notification in English and in the Vernaculars in three successive issues of the *Fort St. George Gazette*. The Commissioner of Labour is requested to forward to Government with his remarks any objections or suggestions that are received by him up to the 15th October 1931.

2. The Superintendent, Government Press, is requested to supply the Senior Translator to Government with six copies of the notification.

(By order of the Governor in Council)

S. V. RAMAMURTI,
Secretary to Government.

To the Commissioner of Labour.

„ the Commissioner of Police.

„ all District Magistrates.

„ the Director of Public Health (through the Local Self-Government Department).

„ the Local Self-Government (Public Health) Department.

„ the Superintendent, Government Press (for publication of the notification).

„ the Senior Translator to Government.

„ the Law (Drafting) Department.

Copy to the Government of India, Department of Industries and Labour (with C.L.).

„ Hon'ble the Resident in Mysore, Bangalore (with C.L.).

True Copy

(By order)

Copy

APPENDIX.

Superintendent

NOTIFICATION.

The following draft of an amendment to the Madras Factories (Amended) Rules, 1923, published with Development Department Notification No. 246, dated 28th August 1923, at pages 992 to 1007 of Part I of the *Fort St. George Gazette*, dated 11th September 1923, as subsequently amended, which the Governor in Council proposes to make in exercise of the powers conferred by sub-section (1) and clause (k) of sub-section (2) of section 37 of the Indian Factories Act, 1911 (Act XII of 1911), is hereby published as required by sub-section (1) of section 39 of the said Act for general information. Notice is hereby given that the said draft will be taken into consideration on or after the 15th October 1931 and that any objection or suggestion which may be received from any person with respect to the said draft before the date aforesaid will be considered by the Governor in Council.

Objections and suggestions should be addressed to the Governor in Council through the Commissioner of Labour.

DRAFT AMENDMENT.

After rule 79 of the said rules, the following rule shall be inserted, namely :—

“79-A. Where an accident occurs and the nature of the injury or the result thereof subsequently proves to be different from the description contained in the original report of the accident in Form K, a supplemental report making the necessary additions or corrections shall be sent, as soon as possible and within three months from the date of the accident, to the authorities mentioned in rule 76.”

No. 6462 S. 1, Office of the Resident
224-1928 in Mysore,
Bangalore, the 5-9-1931.

S.N.109/a.

Proceedings of the Govern-
ment of Madras, Development
Department, No.1023 Dev.,
dated the 13th July, 1931.

A copy of the marginally
*
noted proceedings is forwarded to
the District Magistrate, Civil and
Military Station, Bangalore, for
information.

M. S. 78
SECRETARY TO THE RESIDENT.

Kan 25/8
implied 25/8
E.

8/11/31
3.7.31